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09/976,813	10/12/2001	Edward Larue Stull	010809-0003-999	4122
45766	7590	05/04/2007		
ANTOINETTE M. TEASE			EXAMINER	
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BILLINGS, MT 59105				
			ART UNIT	PAPER NUMBER
			2142	
			MAIL DATE	DELIVERY MODE
			05/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/976,813

Applicant(s)

STULL ET AL.

Examiner

Prieto B.

Art Unit

2142

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: 12 and 14-16.
Claim(s) rejected: 1-4, 6-11, 17-23, 29-34, 37 and 44-46.
Claim(s) withdrawn from consideration: 40-43.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: arguments are not persuasive.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 12/26/07
13. ☒ Other: Advisory Action Comments.

Beatriz Prieto
BEATRIZ PRIETO
PRIMARY EXAMINER

**Notice of Non-Compliant Amendment
(37 CFR 1.121) for Applications Under
Accelerated Examination**

Application No.

09/976,813

Examiner

Prieto B.

Applicant(s)

STULL ET AL.

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Since this application has been granted special status under the accelerated examination program, NO extensions of time under 37 CFR 1.136(a) will be permitted.

The amendment document filed on 11 April 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
_____.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

NO Extensions of time under 37 CFR 1.136(a) will be permitted.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Continuation of 4(e) Other: claims 4, 9, 10, 11, 17, 29, 34 are listed as being previously presented but seem to be amended, applicant is urged to address this inconsistency. Claims 40-43 remain as withdrawn from consideration but should as been canceled, if applicant's intention was to place application in condition for allowance..

Beatriz Prieto
BEATRIZ PRIETO
PRIMARY EXAMINER

ADVISORY ACTION COMMENTS

1. Regarding applicant's remarks (p. 11) of amendment filed after final on 4/11/07. Applicant's asserts that (i) claim 1 has been amended to add the limitation "wherein for each data viewer being merged into another portal, the data sources are cloned so as to isolate different instances of an original data source such that each data viewer has its own cloned instance of a data source," as suggested by the examiner on page 12 (paragraph number 15) of the Office Action.

In response to this assertion, the portion upon which applicant relies on has been reviewed.

In response to the above-mentioned argument applicant's interpretation of the applied reference and/or the present invention has been considered. However, the cloning, transforming, migrating and/or isolating features and/or aspect that applicant relies on are not claimed. Claim 1, has been amended to provide that one or more data viewers from on portal can be merged into another portal, Applicant is referred to the above rejection (item 7).

The above portion made reference to does not contain on its face any suggestion(s). It is respectfully noted, that a rebuttal indicating that the features upon which arguments are relied on are not claimed, is far from an explicit or implicit suggestion to amend the claim(s) to include such subject matter. Further, it seems that since unclaimed features have not been considered and searched in order to make a patentability determination, it is unlikely that an indication that certain features upon which arguments are relied on are not claimed can reasonably be taken as an explicit suggestion.

2. Regarding applicant's remarks (p. 11) of amendment filed after final on 4/11/07. Applicant's asserts that (ii) the limitation "wherein the system allows data that is acquired from different instances of a single data source or different instances of different data sources to be edited across portals,, and wherein federation supports the editing of data across portals," as suggested by the examiner on pages 12-13 (paragraph number 16) of the Office Action.

In response to this assertion, the portion upon which applicant relies on has been reviewed.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *use of a federation to support the editing of data across portals, a portal which supports the editing of data across portals, same data-edit actions, in particular, data copying and pasting, may be applied across portals*) are not recited in the argued rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The above portion made reference to does not contain on its face any suggestion(s). It is respectfully noted, that a rebuttal indicating that the features upon which arguments are relied on are not claimed, is far from an explicit or implicit suggestion to amend the claim(s) to include such subject matter. This is a boilerplate (Form Paragraph 7-37-08) widely used by examiner's as rebuttal to reply to arguments making reference to features that are not claimed (see MPEP Chapter 700 FPs 0700).

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2. Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form (see 1.113). If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of: (c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 USC 132 is outstanding, the submission must meet the reply requirements of § 1.111 (see MPEP 706.07).

3. An amendment filed after final rejection is not entered as a matter of right and must be filed in compliance with 37 CFR 1.116 or 1.312, respectively (see MPEP 201). An amendment that will place the application either in condition for allowance or in better form for appeal may be admitted. Amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(a) (see MPEP 706.07(e)) may also be admitted. Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection (see MPEP 714.13). An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions (MPEP 714.13 see also MPEP § 1207 and § 1211).

4. Amendment after-final filed under 37 CFR 1.116 does not place the application either in condition for allowance or in better form for appeal may be admitted. The Amendment does not complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(a) (see MPEP 706.07(e)) as such will not be admitted.

The amendment does not cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner. It is respectfully noted that compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prieto, B. whose telephone number is (571) 272-3902. The Examiner can normally be reached on Monday-Thursday from 5:30 to 2:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Andrew T. Caldwell can be reached at (571) 272-3868. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system, status information for published application may be obtained from either Private or Public PAIR, for unpublished application Private PAIR only (see <http://pair-direct.uspto.gov> or the Electronic Business Center at 866-217-9197 (toll-free).

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Hand carried or delivered to:
Customer Service Window located at the Randolph Bldg.
401 Dulany St.
Alexandria, VA 22314

Faxed to the Central Fax Office:

(571) 273-8300 (New Central Fax No.)

Or Telephone:

(571) 272-2100 for TC 2100 Customer Service Office.

B. Prieto
Primary Examiner
TC 2100
May 1, 2007

Beatriz Prieto
BEATRIZ PRIETO
PRIMARY EXAMINER